

In the 1st Court of Addl. Sessions Judge and Special Court under POCSO Act.

Special Case No. 36 of 2022 (R-37 of 2022)

(CNR No.WBSP070022822022)

**Present: Sri Bibhas Chatterjee (J.O. No.WB00702),
Additional Sessions Judge, 2nd Court, Sealdah
and 1st A.S.J. Court-in-charge & Special Court
under POCSO Act, Sealdah**

Order No.11 dated 15.12.2022

Today is fixed for production of the accused person named Sk. Shahid and framing of charge.

The accused person above named is produced from JC.

Ld. Special PP submits that another accused namely Shahin is still absconding and also files a petition praying for time for framing of charge by filing a petition on the ground stated therein.

The petition is considered and allowed for ends of justice.

One bail petition has been filed by the ld. Advocate on behalf of the above named petitioner/accused praying for releasing him on bail on the ground as stated therein.

Bail petition is taken up for hearing.

Heard Ld. Special PP. Heard Ld. Advocate for the accused.

Ld. Advocates for the accused submits before this court the accused has been falsely implicated in this case and he was behind the bar for a prolonged period i.e, from 15.08.2022. Ld. Advocate also tries to convince this court by submitting that that the charge sheet has been submitted in the instant case against the accused and as such, there is bleak possibility to tamper with the prosecution evidence and also submits that no purpose will be served if the accused is detained in the custody further and accordingly, prays for releasing him on bail by imposing any condition upon him.

Ld. Special P.P raises strong objection against the instant bail prayer and submits in the instant case the charge sheet has been submitted by the investigating agency after completion of investigation. But another accused is still in absconsion. He again submits that in this case the victim and the other vital witness of this case has yet to be examined and if the accused is released on bail, the prosecution case will be prejudiced and accordingly he prays for rejection of the bail prayer.

Considering the rival submissions of both sides and on perusal of the

case diary along with the materials on record, it reveals that the instant case has been culminated in filing of the charge sheet against the accused persons vide charge sheet no. 273 of 2022 dated 27.09.2022 U/s 324/326/363/376(3)/114 IPC read with section 6 of POCSO Act.

We know that filing of charge sheet is a substantive development in course of investigation in changed circumstances. Not only that when the charge sheet has been filed against the accused person there is prima facie case established against him. Not only that I would like to mention that charge has yet to be framed against the accused person and releasing of the accused from the custody at this juncture where the prosecution has not even commenced to examine the main witnesses of this case including victim, it would prove the detrimental of the eventual outcome of the trial. It also requires mentioning that it is also the settled law that the detention of the accused behind the bar for a prolonged period can not be the sole criteria for releasing the accused on bail when heinous offence has been labelled against him.

In view of the above circumstances, bail petition stands rejected.

C.D. be returned.

To **04.01.2023** for production of the accused person and framing of charge.

D/c by me

2nd Addl. Sessions Judge and
1st A.S.J. Court-in-charge

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Sealdah